

**DRAFT ANNOTATED AGENDA
FOR THE 2018
HUMAN DIMENSION
IMPLEMENTATION MEETING**

Warsaw, 10 to 21 September 2018

BACKGROUND

The OSCE Human Dimension Implementation Meeting (HDIM) is Europe's largest regional conference addressing human rights-related issues of common concern. Every year, the HDIM brings together more than 1,000 representatives of governments of OSCE participating States, OSCE Partners for Co-operation, OSCE executive structures, international organizations and representatives of the civil society to discuss the implementation of the OSCE human dimension commitments.

In 2018, the OSCE Human Dimension Implementation Meeting is organized for 22nd time. Back in 1992, the Helsinki Document mandated the OSCE's Office for Democratic Institutions and Human Rights (ODIHR), as the main institution for the OSCE's human dimension of security, to organize a meeting to review the implementation of human dimension commitments adopted by all OSCE participating States and to look at ways to enhance compliance with those commitments. Since 1998, the HDIM has taken place annually for a two-week period in Warsaw (except for 1999 and 2010, due to the Istanbul and Astana Summits, which reviewed the implementation of these commitments in a different format respectively).

Based on Permanent Council Decision No. 476 of 23 May 2002, on the modalities for OSCE Meetings on Human Dimension Issues, the objectives of the Human Dimension Implementation Meeting are to review human dimension commitments and to foster their implementation. Sessions of the HDIM are devoted to forward-looking discussions with a view to refining and further developing OSCE commitments. Meeting participants may also evaluate and put forward recommendations concerning the procedures and mechanisms for monitoring implementation of human dimension commitments.

The meeting in Warsaw will provide a forum to discuss a wide range of commitments, including this year's three specifically selected topics: (1) Freedom of the Media, (2) Combatting Racism, Xenophobia, Intolerance and Discrimination and (3) Rights of Migrants.

This annotated agenda is intended to provide participants with guidelines to prepare for active and constructive participation in the meeting's working sessions.

Information on the modalities for conducting discussions at the HDIM is provided in the meeting manual. Consolidated summaries of previous meetings, including recommendations from participants, are available at <http://www.osce.org/odihr/44078>. The HDIM factsheet can be accessed at <http://www.osce.org/odihr/20680>.

MONDAY, 10 SEPTEMBER 2018

10 a.m.–1 p.m. Opening plenary session

In accordance with PC.DEC/476, the opening Plenary Session will, as a rule, be addressed by the Chairperson-in-Office, a high representative of the host country, the Director of the ODIHR, the HCNM and the RFOM. The President of the OSCE Parliamentary Assembly will be invited to address this Plenary Session. Prominent international personalities in the field of the human dimension may also be invited to address the opening Plenary Session.

1–3 p.m. Break

3–6 p.m. Working session 1: Democratic institutions, including democracy at the national, regional and local levels, and democratic elections

Democracy at the national, regional and local levels

In the 1990 Copenhagen Document, the OSCE participating States committed to the protection of fundamental freedoms, human rights and the rule of law. These commitments relate to nurturing and developing democratic institutions at all levels - national, local and regional. They also state that vigorous democracy depends on the existence of an extensive range of democratic institutions, values and practices being an integral part of national life. The participating States mandated ODIHR to promote and assist in building democratic institutions at the request of States, helping to strengthen local and central government and parliamentary structures.¹

OSCE participating States recognize that democracy at all levels of government is predicated on political pluralism and a multi-party system. The 1990 Copenhagen Document also stressed the importance of a separation between the state and political parties, as well as “the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations”.

One of the OSCE’s objectives is to support participating States in creating a regulatory environment in which political parties can effectively perform their essential democratic functions. Transparency and accountability of political parties are crucial for public trust and legitimacy. A democratic state cannot function without an effective system of check and balances in place, whereby the role of the executive is overseen, and at times also counter-balanced. In this regard, the oversight function of legislative power remains one of the cornerstones of democracy. A robust monitoring of the executive by the parliament is an indicator of good governance, ensuring a healthy balance of powers while holding the executive accountable for its actions.

The existence of legal and factual conditions for the peaceful expression of a political opposition inside and outside the parliament remains an essential component of a well-functioning democracy. In this respect, the nurturing of a pluralistic public participation is fundamental, as emphasized in the Helsinki Document of 2008, which recognizes that “human rights are best respected in democratic societies, where decisions are taken with

¹ Bucharest 2001 (Annex to Decision 1 on Combating Terrorism; The Bucharest Plan of Action for Combating Terrorism).

maximum transparency and broad participation.” An increased political participation of under-represented groups (women², youth³, persons with disabilities⁴ and minorities⁵) contributes to a more inclusive and democratic society. In the 1991 Moscow Document, OSCE participating States “again reaffirm that pluralism is important in regard to political organizations”.

Democratic elections

OSCE participating States have committed to upholding key principles of democratic elections as an essential element underpinning genuine democracy. The significance of democratic elections is explicitly recognized in OSCE commitments and other international obligations and standards for democratic elections and through ODIHR’s mandate to support OSCE participating States to implement their election-related commitments by undertaking election observation and assisting follow-up on electoral assessments and recommendations.

ODIHR’s well-established and comprehensive election observation reveals a range of practices observed in electoral processes across the OSCE region. Positive aspects include strengthened legal frameworks with a number of improvements resulting directly from a follow-up to ODIHR recommendations, greater attention to the issue of inclusion, specifically with regard to women’s participation and the rights of persons with disabilities, increased awareness of the importance of regulating campaign finance, and deeper understanding of the benefits and challenges of introducing new technologies into electoral processes. But challenges with the implementation of election-related commitments remain and include limitations placed on suffrage rights, the freedom of expression and the media environment, a lack of confidence in and impartiality of election administration bodies, and limitations faced by citizen election observers. The importance of commitments related to the free conduct of electoral campaigns remains particularly salient, especially given the growing utilization of the Internet for informing and reaching out to voters.

OSCE participating States recognize that election observation is not an end in itself. Its ultimate benefit is only realized to the degree that assessments and recommendations to improve the conduct of an electoral process are given sufficient consideration and effectively addressed. At the 1999 Istanbul Summit, participating States committed themselves to “follow up promptly the ODIHR’s election assessment and recommendations” and recognized “the assistance the ODIHR can provide to participating State[s] in developing and implementing electoral legislation”. Sustainability of electoral follow-up depends on the inclusiveness of the process and the extent of consultations, including with civil society, undertaken during the implementation of recommendations.

This session will provide an opportunity for participating States to take stock of progress in the implementation of OSCE commitments on democratic institutions and political pluralism. Participants will also have an opportunity to review electoral practices in OSCE participating States in compliance with OSCE commitments and international obligations, and approaches taken by the participating States when implementing ODIHR’s recommendations.

² Athens Decision 7/09.

³ Madrid, 2007.

⁴ Moscow 1991.

⁵ Copenhagen 1990; Geneva 1991.

Questions that could be addressed:

- What are the key challenges OSCE participating States face in ensuring independent and well-functioning democratic institutions and political pluralism?
- How can the OSCE executive structures support participating States in strengthening the functioning of democratic institutions, including parliaments, and ensuring greater political pluralism at all government levels?
- How to ensure that parliaments are diverse and truly representative of the interest of different sections of the society, including various under-represented groups such as women, youth and persons with disabilities?
- What are some of the examples of established and evolving good electoral practice concerning suffrage rights, specifically with regard to facilitation of electoral participation of disadvantaged groups?
- What particular challenges have participating States faced in meeting their commitments related to ensuring a free campaign environment, especially given the growing use of the Internet? How can they be overcome?
- What are the challenges to ensuring full compliance with OSCE commitments concerning citizen and international election observation?
- What approaches are OSCE participating States taking to ensure that follow-up of ODIHR's assessments and recommendations is effective and based on inclusive and broad consultation?

TUESDAY, 11 SEPTEMBER 2018

10 a.m.–1 p.m.	Working session 2 (specifically selected topic): Freedom of the media
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The OSCE participating States have solemnly declared that “human rights and fundamental freedoms are the birthright of all human beings, are inalienable and are guaranteed by law” (Paris 1990) and committed themselves “to ensuring the freedom of the media as a basic condition for pluralistic and democratic societies” (Istanbul 1999). They agreed in Helsinki in 1975 “to facilitate the freer and wider dissemination of information of all kinds, to encourage co-operation in the field of information and the exchange of information with other countries.” As part of their media freedom commitments, the participating States voluntarily agreed to condemn all attacks on and harassment of journalists and to endeavour to hold those directly responsible for such attacks and harassment accountable (Budapest 1994).

In accordance with his mandate, the OSCE Representative on Freedom of the Media reports to the Human Dimension Implementation Meeting on the status of the implementation of OSCE principles and commitments in respect of freedom of expression and freedom of the media in the participating States. The Representative addresses serious problems caused by, *inter alia*, obstruction of media activities and unfavourable working conditions for journalists. The OSCE Representative on Freedom of the Media systematically deplors ongoing threats to the safety of journalists and others disseminating information in the public interest, including high levels of assassinations, and the persistent impunity for such attacks, both of which undermine media freedom and independence. From threats and intimidation to attacks, arson, and physical violence including murder, most of interventions of the OSCE Representative in the past 12 months have been on the safety of journalists. This is Representative's number one priority which he suggests to be the first concern for participating States when it comes to media freedom.

On average, only one in 10 investigations into murders of journalists result in prosecution. Statistics like this prove that journalists' safety must become a higher priority for governments that claim to support the work of the free media and uphold OSCE commitments. Governments have a key role to play in bringing about much-needed change. Political commitments to protect media freedom are important, but without effective and timely prosecution and punishment of all those responsible for crimes against journalists, nothing will change.

Safety of journalists also refers to legal safety – the ability to report without fear of legal repercussions, the foremost of which is imprisonment for journalistic work. Today, in the OSCE region, more than 150 journalists are still in prison. Reporting, even on sensitive issues, expressing critical views, even on governmental policies, investigating on corruption cases, should not lead to the imprisonment of a journalist.

Questions that could be addressed:

- What is the current state of media freedom in the OSCE?
- How can participating States better ensure that the media can work freely and independently, and under safe working conditions?
- What is the role of civil society, including journalists in advancing media freedom, as well as quality of journalism?
- What is the role of governments, intergovernmental organizations, non-governmental organizations and journalist associations in supporting safety of journalists as well as pluralism and independence of the media?
- What is required from the authorities in order to become more effective in ending impunity of masterminds and perpetrators of crimes committed against journalists?

1–3 p.m. Break

3–6 p.m. Working session 3 (specifically selected topic): Freedom of the media
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OSCE participating States have reaffirmed that the “OSCE’s comprehensive approach to security requires improvement in the implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms” (Lisbon Summit, 1996). They have also reaffirmed the importance of independent media and the free flow of information as well as the public’s right to access information and committed themselves to take all necessary steps to ensure the basic conditions for free and independent media (Istanbul 1999). Participating States agreed to ensure that the Internet remains an open and public forum for free expression and free opinion (MC.DEC/12/04). They have also recognized “the essential role that the free and independent media can play in democratic societies and the strong influence it can have in countering or exacerbating misperceptions, prejudices” (MC.DEC/13/06).

Noting that a free, professional, responsible journalistic community can help building a strong, just, and prosperous society, This session will focus on the efforts of the OSCE participating States in implementation of the OSCE media freedom commitments on the issues related to the media freedom legal framework, including in the context of confidence-building measures in the field of national security that are related to the use of information

and communication technologies. These measures should be consistent with: international law, including, *inter alia*, the UN Charter and the International Covenant on Civil and Political Rights; as well as the Helsinki Final Act; and their responsibility to respect human rights and fundamental freedoms (PC.DEC/1106). As to the extremism-related threats best practices include encouraging the promotion of tolerance, dialogue, respect and mutual understanding through the media, including the Internet. The OSCE Representative on Freedom of the Media has expressed his concerns about contemporary legal threats to freedom of the media, that include expanding existing restrictions based on broadened notions, laws which unduly limit expression online, blocking of websites, the unprecedented number of journalists jailed for their work and the delegation of content regulation to online platforms. He is also alert when laws or other measures prohibiting dangerous to security speech, offline and increasingly online, are enforced in a discriminatory or selective manner for political purposes which can lead to impeding the expression of alternative opinions and views.

From blocking of websites to surveillance and forced disclosure of confidential sources, security is too often used for sweeping restrictions on freedom of the online media. The OSCE Representative on Freedom of the Media recommends that restrictions on media freedom which rely on notions such as “national security”, “fight against terrorism”, “extremism” or “incitement to hatred” be defined in a clear, predictable and narrow manner and be subject to judicial oversight, so as to limit the discretion of officials when applying those rules. To respect the relevant OSCE standards the restrictions are to be provided by law, serve legitimate interests recognised under international law, and be necessary and proportionate to protect those interests. Inherently vague notions, such as “information security” and “cultural security”, should be avoided as a basis for restricting freedom of expression. The fight against terrorism, violent extremism and hate speech is not compatible with jailing of journalists who have nothing to do with such criminal activities. On the contrary, it is more necessary than ever to demonstrate today that the participating States can combat these evils without renouncing our core values.

Questions that could be addressed:

- What legal obstacles still prevent the media from obtaining, reporting and disseminating information, news and opinions in accordance with international law and international standards?
- What kinds of constraints do the media face during times of war, armed conflict, terrorism, or national emergency?
- What is the appropriate balance between freedom of expression and national security? How are they best served?
- What are the best practices to take into account public interests when restrictions are imposed on media freedom aimed to promote tolerance, truthfulness and/or counter radicalization?

WEDNESDAY, 12 SEPTEMBER 2018

10 a.m.–1 p.m.

Working session 4: Rule of law I, including independence of the judiciary, right to a fair trial, democratic law-making

Independence of the judiciary

The independence of the judiciary is a prerequisite of the rule of law. OSCE participating States have declared it an element of justice which is “essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings” (Copenhagen 1990), and have committed to ensuring that judicial independence is both guaranteed through law and respected in practice (Moscow 1991). In particular, participating States should respect judges’ guaranteed tenure and appropriate conditions of service, and ensure that discipline, suspension, and removal of judges is determined according to law. The Ministerial Council, in its decisions and declarations, has also repeatedly affirmed the importance of judicial independence to the rule of law, considering that it acts as a fundamental guarantee of a fair trial (Brussels 2006) and identifying it as one of the components of rule of law which participating States should strengthen through the sharing of information and best practices (Helsinki 2008).

The independence of the judiciary has its rationale in the separation of powers within a state, in the interest of deliberate division of state functions amongst different institutions to prevent unbalanced and unchecked powers. In order for the judiciary to be able to hand down decisions based on the merits of a case and in line with the principles of a fair trial, judges need to be able to adjudicate free from interference, in particular free from interference of those who are powerful and influential. At the same time, only an independent judiciary is in a position to hold to account individuals within state institutions who infringe the law or abuse their power.

At the same time, judges need to be accountable in case of professional misconduct, including through disciplinary proceedings which are transparent, adequately safeguard judicial independence and comply with the right to fair trial of the respective judge.

Right to a fair trial

OSCE commitments guarantee “the right to a fair and public hearing within a reasonable time before an independent and impartial tribunal, including the right to present legal arguments and to be represented by legal counsel of one’s choice” (Vienna 1989). OSCE participating States have also recognised that “the rule of law must be based on respect for internationally recognised human rights, including the right to a fair trial” (Ljubljana 2005).

Despite these commitments, the insurance of the right to fair trial in the OSCE participating States continues to face multiple challenges. States of conflict and emergency in some OSCE participating States have had serious impact on the right to a fair trial, leading to multiple violations of judicial independence and impartiality, restricting the right to access to a tribunal, and limiting the right to effective defence.

OSCE participating States have stated that “in the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone will be entitled to a fair and public hearing” (Copenhagen 1990). However, court hearings, particularly in high-profile criminal cases, are sometimes closed for the public in OSCE participating States. The exclusion of the public from a hearing must be strictly required, be proportional to the legitimate aim pursued and be assessed on a case-by-case basis. Closed court hearings create a general impression of unfair trials and seriously undermine public trust in the judiciary. Open court hearings help protect against potential abuses and also educate and inform the public on the principles of fairness.

OSCE participating States have declared that lawyers play a “critical role in ensuring the right to a fair trial and in the furtherance and protection of other human rights in the criminal justice system” (Ljubljana 2005). The principle of equality of arms which is an inherent element of the right to a fair hearing requires that the defendant with the public prosecutor enjoy the same procedural rights, unless distinctions are based on law and can be justified on objective and reasonable grounds, not entailing actual disadvantage or other unfairness to the defendant⁶. However, the right to free choice of a defence lawyer is often seriously limited in the OSCE participating States. Furthermore, lawyers for the defence often do not possess sufficient resources and procedural guarantees to provide a performance commensurate with that of the prosecutor.

Democratic law-making

As a core element of the rule of law, legality presupposes a transparent, accountable and democratic process for enacting laws⁷. OSCE participating States have committed to adopting legislation “at the end of a public procedure” (Copenhagen 1990) and “as the result of an open process reflecting the will of the people” (Moscow 1991). Citizens should have a meaningful opportunity to participate in the legislative process, including through public consultations on draft laws. Special attention should be paid to ensuring the effective participation of minorities and marginalised groups. New legislation, especially when it concerns important and systematic issues, should be based on proper impact assessment (including human rights impact), publicly debated and rigorously scrutinized by parliament. Any legislative reform should be widely consulted on, especially with those directly affected by them. The effectiveness of existing legislation and its compliance with human rights and the rule of law should be regularly reviewed.

This session will look at the challenges which the participating States face in guaranteeing judicial independence by observing the separation of powers, in ensuring the right to a fair trial, and in implementing a democratic law-making process. Participants will also have an opportunity to review good practices in OSCE participating States in compliance with OSCE commitments and international standards.

Questions that could be addressed:

- What systems of checks and balances have participating States put in place in order to ensure the adequate separation of the judiciary from other branches of power in order to implement OSCE commitments on the rule of law?
- What challenges do participating States face related to ensuring freedom from interferences in the independence of judicial functions?
- What effective measures should the OSCE participating States undertake for the fulfilment of fair trial guarantees such as such as the right to access to a tribunal, right to publicity of the trial, and right to effective defence?
What specific measures do OSCE participating States adopt to ensure that their legislative processes are transparent, inclusive and open?

1–3 p.m.

Break

⁶ UN Human Rights Committee, CCPR General Comment 32 (2007), para 13.

⁷ CDL-AD(2016)007, par 18.

3–6 p.m.

Working session 5: Rule of law II, including prevention of arbitrary arrest, detention or exile, and prevention of torture, exchange of views on the question of abolition of capital punishment, protection of human rights in the fight against terrorism

Prevention of arbitrary arrest, detention or exile

The Universal Declaration of Human Rights proclaims that “no one shall be subjected to arbitrary arrest, detention or exile”. Accordingly, the OSCE participating States committed to ensure that “no one will be subjected to arbitrary arrest, detention or exile” (Vienna 1989), and they affirmed that “without discrimination (...) , no one will be subject to arbitrary arrest or detention” (Paris 1990). Despite these commitments and clear international obligations, in the OSCE region the absolute prohibition of such practices under international law is not always respected. Arbitrary arrest, detention or exile persist for various purposes and in different contexts; they may be used to punish, extract information or intimidate political opposition. Real or perceived threats to national security may also serve as a pretext to justify the use of arbitrary arrest or detention. The prohibition of arbitrary detention, detention or exile is absolute and can never be justified

Prevention of torture

The importance attributed to the prevention of torture by participating States is reflected in numerous OSCE commitments (Copenhagen 1990, Vienna 1989, Paris 1990, Moscow 1991, Budapest 1994, Istanbul 1999, Ljubljana 2005 and Athens 2009) and still today it is clear and remains unchallenged. The absolute nature of the prohibition against torture as *ius cogens* is, within the OSCE framework, reflected in the 1990 Copenhagen Document. In the 1999 Istanbul Charter, States further committed to the eradication of torture and other cruel, inhumane or degrading treatment or punishment (other ill-treatment) in the OSCE area. Still, torture and other ill-treatment persist in the OSCE region to varying degrees and for various purposes such as punishment, to extract information or to intimidate political opposition.

OSCE participating States need effective preventive and other measures including the improvement of conditions of detention and the treatment of prisoners, strengthening external mechanisms mandated to monitor all places of detention and the establishment of additional national preventive mechanisms (NPMs) under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in the OSCE region, and improving the implementation of the right to rehabilitation of torture survivors at the national level. Participating States can advance these and other measures, for example, by utilizing expertise and guidance from ODIHR, other international organizations and NGOs, learning from one another, replicating existing good practice, and investing in capacity building for state actors responsible for the prevention of torture. Impunity for perpetrators must cease and the commitment to take effective measures to reduce the risk of torture occurring must be reinforced and translated into reality across the OSCE region.

Exchange of views on the question of abolition of capital punishment

There is a clear trend towards abolition of the death penalty. Participating States have committed to keeping the question of eliminating capital punishment under consideration (Copenhagen 1990) and those that retain the death penalty in practice and/or law have pledged to ensure transparency regarding the application of the death penalty by making

relevant information available to the public and to other participating States (1990 Copenhagen). On the basis of these commitments, each year ODIHR has been publishing “The Death Penalty in the OSCE Area – an annual background paper” in order to facilitate the exchange of information on developments relevant to the status of the death penalty in the OSCE area.

Protection of human rights and fighting terrorism

Ensuring full respect for human rights and the rule of law is a precondition for the legitimacy and the effectiveness of States’ actions in the counter-terrorism context. OSCE participating States have consistently pledged to fully respect their obligations under international law, including human rights, refugee and humanitarian law, while countering terrorism (2001 Bucharest Plan of Action for Combating Terrorism and 2002 OSCE Porto Charter on Preventing and Combating Terrorism). In December 2012, participating States adopted the OSCE Consolidated Framework for the Fight against Terrorism, identifying the promotion and protection of human rights and fundamental freedoms as a strategic focus area for OSCE counter-terrorism activities. More recently, they reiterated the necessity to protect human rights while addressing the potential threats posed by “foreign terrorist fighters” (MC.DOC/5/14) and in preventing and countering violent extremism and radicalization that lead to terrorism (MC.DOC/4/15). The 2016 MC Declaration on strengthening OSCE efforts to prevent and counter terrorism reconfirmed this.

Still, human rights are often indiscriminately limited in the name of a narrowly defined security. Measures such as blanket bans, blocking, content regulation and removal of websites, risk to unduly curtail freedom of expression online and the right to privacy in the digital sphere. Moreover, Reactions to potential threats originating from the relocation or return of foreign terrorist fighters from conflict zones, which disregard fundamental human rights, exacerbate concerns about over-broad counter terrorism legislation and policies, which are prone to arbitrary application and abuse. The impact of counter terrorism policies and practices based on stereotypical assumptions undermine the values those measures should protect and reinforce the stigmatization of entire groups in society. They also prove to be ineffective and counterproductive, as they may be exploited by terrorist organizations and push individuals, including youth, further towards a path of violent radicalization.

States have an obligation to protect everyone within their jurisdiction from terrorist acts and bring to justice those responsible while abiding by fundamental human rights and the rule of law. Failing to do so may exacerbate terrorist threats and contribute to their further escalation.

This session will provide an opportunity for participating States to discuss issues linked to the implementation of their human dimension commitments in the field of preventing arbitrary arrest, detention or exile, preventing torture and countering terrorism. It will also serve as a platform to analyse the situation of the death penalty in the OSCE region.

Questions that could be addressed:

- What are the main reasons for the persistence of torture and cruel, inhuman or degrading treatment or punishment in the OSCE region? What institutional incentives for torture may have to be addressed to eradicate torture and other ill-treatment in the OSCE region?
- What measures should OSCE participating States adopt to effectively prevent and address instances of arbitrary detention, detention or exile?

- How can the issue of impunity be addressed? What mechanisms exist in participating States to ensure that allegations of torture and ill-treatment are investigated in a transparent and impartial manner and punished appropriately?
- What measures can OSCE participating States take to ensure that international legal obligations and commitments on the use of death penalty are observed?
- What assistance is needed to ensure that States' actions to counter emerging terrorist threats fully comply with their human rights obligations? What kind of accountability mechanisms should be in place and what role can civil society play in that respect?
- What do human rights and rule of law compliant responses to potential threats posed by "foreign terrorist fighters" and the use of the Internet for terrorist purposes look like?

THURSDAY, 13 SEPTEMBER 2018

10 a.m.–1 p.m.	Working session 6: Tolerance and non-discrimination I, including combating anti-Semitism, combating intolerance and discrimination based on religion or belief, including against Christians, Muslims and members of other religions
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The OSCE participating States committed to respect human rights and fundamental freedoms for all without distinction as to race, sex, language or religion (Helsinki 1975) and to ensure human rights and fundamental freedoms to everyone within their territory and subject to their jurisdiction, without distinction of any kind such as "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (Vienna 1989). They have solemnly declared that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings is also the one that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law (Copenhagen 1990).

The participating States expressed their deeply held conviction that they share common values forged by history and based, inter alia, on respect for the individual, freedom of conscience, religion or belief, freedom of expression, recognition of the importance of spiritual and cultural values, commitment to the rule of law, tolerance and openness to dialogue with other cultures. They repeated the importance of "irreplaceable uniqueness of all their cultures and endeavour to promote continued cultural dialogue among themselves and with the rest of the world". They reaffirmed their belief that respect for cultural diversity promotes understanding and tolerance among individuals and groups (Cracow 1991).

The participating States have also consistently and unequivocally condemned totalitarianism, racial and ethnic hatred, anti-Semitism, xenophobia, discrimination and hate crimes against anyone as well as persecution on religious and ideological grounds (Copenhagen 1990) and "expressed deep concern the growing manifestations of aggressive nationalism, such as territorial expansionism, as well as racism, chauvinism, xenophobia and anti-Semitism" (Rome 1993). They repeatedly stated that these run directly counter to the principles and commitments of the OSCE, and that these phenomena can lead to "violence, secessionism by the use of force and ethnic strife, and in their worst instances to the barbaric practices of mass deportation, ethnic cleansing and violence against innocent civilians".

The Ministerial Council recalled the importance of "promoting and facilitating intercultural and inter-faith dialogue and partnerships aimed at tolerance, mutual respect and understanding", at both the national and the international levels (Ljubljana, 2005). It again

recognized that manifestations of discrimination and intolerance threaten the security of individuals and societal cohesion, and may give rise to wider-scale conflict and violence. It therefore acknowledged that the “promotion of a culture of mutual respect, understanding and equality and the pursuit of equal opportunities for effective participation in democratic societies requires a systematic, comprehensive and long-term approach”(Brussels, 2006). The Ministerial Council also once again recognized the work of the three Personal Representatives of the Chairman-in-Office in support of the overall effort of the OSCE to combat intolerance and discrimination.

Despite these long-standing commitments, anti-Semitism and intolerance based on religion or belief, including against Christians, Muslims and members of other religions, continue to be a concern across the OSCE region. With this in mind, in 2018 Italy has dedicated two Chairmanship events to the fight of tolerance and non-discrimination on religious grounds: the “Rome International Conference on the Responsibility of States, Institutions and Individuals in the Fight against Anti-Semitism in the OSCE Area” and the Rome Conference on combatting intolerance and discrimination based on religious grounds, organised in collaboration with ODIHR.

The aim of this session is to review the implementation of OSCE commitments related to combatting anti-Semitism, combating intolerance and discrimination based on religion or belief, including against Christians, Muslims and members of other religions. The session will review progress made as well as the challenges encountered, with a special emphasis on lessons learned and further potential developments and avenues of improvement.

Questions that could be addressed:

- How are OSCE participating States ensuring the implementation of the OSCE Ministerial Council Decisions No. 10/07, No. 13/06 and 10/05 on tolerance and non-discrimination, particularly for members of religious communities? What are the challenges that participating States face in this regard?
- What progress have participating States made in establishing action plans and strategies to address intolerance and discrimination on religious ground, and promote the culture of tolerance and diversity, including in disputed territories?
- Which steps can be taken in order to better explore and effectively address the different effects that various manifestations of religious intolerance and discrimination can have on men and women?
- What is the role of non-state actors, like educational, media or religious community institutions, in addressing intolerance and discrimination particularly against members of different religions and promoting tolerance, diversity and understanding?
- How can ODIHR and other OSCE institutions, including the three Personal Representatives of the Chairperson-in-Office, better support participating States in implementing their commitments relating to tolerance and non-discrimination based on religious grounds?

1–3 p.m. Break

3–6 p.m.	Working session 7: Fundamental freedoms I, including freedom of thought, conscience, religion or belief
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Freedom of religion or belief as a multi-faceted human right embracing individual, collective, institutional, educative and communicative dimensions is expressly recognized in OSCE

commitments.⁸ These set out a number of key principles concerning the enjoyment of freedom of religion or belief, including its status as a right belonging to all human beings, men and women, whether believers or non-believers, and the freedom of everyone to manifest their religion or belief, individually or in community with others, in private or in public. They also stipulate an important general rule for the right to freedom of religion or belief, namely that it will not be subject to any restrictions except those provided for by law and consistent with other obligations under international law, such as the International Covenant on Civil and Political Rights.

The Kyiv Ministerial Decision 3/13 reaffirmed “the commitments of participating States to respect, protect, and ensure the right of everyone to freedom of thought, conscience, religion or belief” and called on participating States to “fully implement OSCE commitments on the freedom of thought, conscience, religion or belief”. While progress has been made in a number of important areas, such as legislation that conforms more fully to OSCE commitments related to freedom of religion or belief, gaps in implementation remain. Excessive, disproportionate and unnecessary in a democratic society restriction on this universal human right are enacted in the name of “national”, “State” or “public” security, or in the interests of preserving or maintaining “peaceful coexistence”, “social stability” or “social harmony”. Rather than measuring the legitimacy of State-imposed limitations on the prevailing status of this human right, the perception in some parts of the OSCE region seems to be that the exercise of freedom of religion or belief requires specific permission from the state. Such an understanding goes against the concept of freedom of religion or belief as an inalienable right belonging to everyone without distinction.

This session will provide an opportunity for participants to revisit the nature, status and scope of freedom of religion or belief and examine and reflect on progress toward the full implementation of OSCE commitments in light of current challenges, particularly at the intersection of freedom of religion or belief and security. It will also aim to identify specific policies and practical strategies that can be taken forward by participating States, civil society organizations and religious or belief communities to advance the right to freedom of religion or belief for all, and the assistance that OSCE institutions and executive structures could provide to help achieve this.

Questions that could be asked:

- What progress has been made to implement OSCE commitments pertaining to freedom of religion or belief? Where are the gaps in implementation?
- What are root causes underlying violations of freedom of religion or belief in the OSCE region?
- What opportunities exist in the OSCE region to advance freedom of religion or belief for all?
- What more can be done to assist OSCE participating States to advance freedom of religion or belief for all while ensuring security?
- What examples of good practice in this regard are there?

⁸ 1975 Helsinki Final Act; 1989 Concluding Document of the Vienna Meeting; 1990 Document of the Copenhagen Meeting; 1990 Charter of Paris for a New Europe; 1994 Budapest Document; 1999 Charter for European Security; Ministerial Council Decisions or Declarations adopted in Porto (MC(10).DEC/6), Maastricht (MC.DEC/4/03), Sofia (MC.DEC/12/04), Ljubljana (MC.DEC/10/05), Brussels (MC.DEC/13/06), Madrid (MC.DEC/10/07), Helsinki (MC.DEC.6/08), Athens (MC.DEC/8/09 and MC.DEC/9/09), Astana (SUM.DOC/1/10), and Kyiv (MC.DEC/3/13).

FRIDAY, 14 SEPTEMBER 2018

10 a.m.–1 p.m.	Working session 8: Tolerance and non-discrimination I (continued), including rights of persons belonging to national minorities, and preventing aggressive nationalism, racism and chauvinism
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Rights of persons belonging to national minorities

With the Copenhagen Document, participating States reaffirmed that “respect for the rights of persons belonging to national minorities as part of universally recognized human rights is an essential factor for peace, justice, stability and democracy”. Participating States also recognized that persons belonging to national minorities have the right to fully and effectively exercise their human rights and fundamental freedoms, without any discrimination and in full equality before the law. Moreover, it was recognized that states should adopt, where necessary, “special measures for the purpose of ensuring to persons belonging to national minorities full equality with other citizens in the exercise and enjoyment of human rights and fundamental freedoms”. Promoting respect for the human dimension commitments, in addition to participating States’ legal obligations, are an important foundation stone in the work of the OSCE High Commissioner on National Minorities (HCNM). The Institution was created in 1992, primarily to reduce the chance of intra-state conflicts which have an international dimension. At the heart of the Institution’s work, is the notion that conflict can be prevented by taking early action to address factors increasing ethnic or other national minority related tensions. Many aspects of OSCE and international standards related to minority protection have subsequently been addressed by successive High Commissioners in the institution’s recommendations and guidelines.

In this session, participants are asked to note both positive practices and challenges that they have faced in designing and implementing integration strategies that ensure protection and promotion of the rights of persons belonging to national minorities.

Preventing aggressive nationalism, racism and chauvinism

In 1993, OSCE participating States noted with concern the growing manifestations of aggressive nationalism as well as racism and chauvinism. Subsequent OSCE Ministerial Council decisions, adopted in 2003 and 2007, reiterated this concern and reaffirmed the commitment to promote tolerance and combat discrimination. Despite these commitments, the tide of aggressive nationalism and chauvinism has not yet abated, and continues to find new forms. Extremist ideology is on the rise in many countries, while hateful rhetoric has the potential to stigmatize certain communities, deepen divisions, and thus polarize societies.

The aim of this session is to review the implementation of OSCE commitments related to achieving a comprehensive approach to prevent aggressive nationalism, racism and chauvinism. Challenges, good practices and lessons learned will be shared.

Questions that could be addressed:

- What are the main challenges in OSCE participating States’ implementation of their commitments to ensure the protection of the rights of individuals belonging to national minorities?
- Which mechanisms are in place to ensure that minorities are consulted regularly on policy development and implementation? Do these processes include consultations

with women from national minorities, and do they address issues that affect minority women and youth?

- How are participating States ensuring implementation of OSCE commitments on preventing aggressive nationalism, racism and chauvinism?

1–3 p.m.

Break

3–6 p.m.

Working session 9: Tolerance and non-discrimination II, including Roma and Sinti issues, including implementation of the OSCE Action Plan on Improving the Situation of Roma and Sinti

Fifteen years ago, OSCE participating States (Ministerial Council Decision No. 3/03) adopted the 2003 *Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area* (OSCE Action Plan), pioneering a comprehensive policy response to the vicious cycle of social exclusion and societal marginalization of Roma and Sinti, and discrimination and racism against them, across the OSCE region.

The OSCE Action Plan calls upon participating States and OSCE structures and institutions to enhance the participation of Roma and Sinti in public and political life. The participating States committed to proactively ensure the participation of Roma and Sinti in public and political life by solving issues related to the lack of personal documents and by accounting to the principles of early involvement, inclusiveness, transparency, meaningful participation at all levels of government, and ownership. These commitments have been reinforced and enriched by the Ministerial Council Decision No. 6/08, urging increased efforts for active engagement of Roma and Sinti in relevant policy making and their effective participation in public and political life.

Within the past decade progress had been made with setting up administrative structures for Roma representation at local and national level; however, Roma and Sinti remain overall under-represented in elected bodies as well as in public administration. In follow-up to the second ODIHR's Status Report on the Implementation of the OSCE Action Plan (2013), reviewing the progress and shortfalls of implementing OSCE commitments relating to Roma and Sinti, OSCE participating States again committed to enhance their efforts to implement the OSCE Action Plan with the Ministerial Council Decision No. 4/2013, with a particular emphasis on Roma and Sinti women, youth and children.

Among others, OSCE participating States committed to enhancing the participation of Roma and Sinti in the elaboration, implementation and evaluation of policies that affect them, including by fostering Roma and Sinti political participation and by supporting voter education among Roma and Sinti, as well as by promoting the public and political participation of Roma and Sinti women.

On the fifteenth anniversary of the OSCE Action Plan this year the plan is to publish the third Status Report, taking stock of the implementation of the commitments within Chapter VI: "Enhancing participation in public and political life".

This session will review progress made by the participating States with regard to enhancing participation of Roma and Sinti, as well as highlight the remaining challenges precluding effective participation of Roma and Sinti, including of women and youth. The session will

facilitate sharing of good practices and measures undertaken by participating States to overcome the identified obstacles.

Questions that could be addressed:

- What mechanisms/policies/programs are in place, or can be set up, to ensure adequate representation and to enhance the public and political participation of Roma and Sinti, including women and youth?
- How do participating States ensure meaningful participation of Roma and Sinti, including of women and youth, in decision-making processes, policy design, implementation and evaluation?
- What have been the developments in the area of participation of Roma and Sinti women and men in public and political life in the last five years?
- How is active involvement of Roma and Sinti women and youth promoted by state policies and institutions and through what kind of means?
- How are participating States addressing the challenges that Roma and Sinti face in all areas of public life, including as regards their participation in public and political life?

MONDAY, 17 SEPTEMBER 2018

10 a.m.–1 p.m.	Working session 10: Fundamental freedoms I (continued), including freedom of expression, freedom of peaceful assembly and association, national human rights institutions and the role of civil society in the protection of human rights, and freedom of movement
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The OSCE Participating States committed to “respect for human rights and fundamental freedoms” (Helsinki 1975), and as agreed in the Maastricht Declaration 2003, OSCE participating States strive “to promote conditions throughout its region in which all can fully enjoy their human rights and fundamental freedoms”, including “secure environments and institutions for peaceful debate and expression of interests by all individuals and groups of society”. Therefore, OSCE participating States should create an enabling environment for the exercise of these rights, including the rights to freedoms of association and peaceful assembly, expression, and freedom of movement, in the spirit of the 1989 Vienna and 1990 Copenhagen Documents.

This session will review and explore measures that can be taken by participating States to promote and protect fundamental freedoms, including freedom of expression, freedom of peaceful assembly and association, national human rights institutions and the role of civil society in the protection of human rights.

Freedom of expression

The right to freedom of expression is enshrined in international and regional human rights instruments, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The OSCE participating States have also agreed that “everyone will have the right to freedom of expression including the right to communication. This right will include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of this right may be subject only to such restrictions as are prescribed by law and are consistent with international standards. In particular, no limitation will be imposed on access to, and use of,

means of reproducing documents of any kind” (Copenhagen, 1990). Undue restrictions on access to information can inhibit human dimension activities in a number of ways. In 2013 the UN Human Rights Council called upon states to ensure that “information held by public authorities is proactively disclosed, including on grave violations of human rights, and that transparent and clear laws and policies provide for a general right to request and receive such information, for which public access should be granted, except for narrow and clearly defined limitations.”⁹

Freedom of peaceful assembly and association

OSCE participating States committed to facilitate and protect the rights to freedom of peaceful assembly and association. These fundamental freedoms are protected by a range of international and regional human rights instruments, including the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms, and reaffirmed in OSCE commitments (Paris and Copenhagen Documents, 1990). Likewise, OSCE participating States have reaffirmed the right of individuals to know and act upon their rights and duties and the need to protect human rights defenders (Helsinki Final Act, Budapest 1994).

In order to assist in monitoring the implementation of human dimension commitments in the area of freedom of peaceful assembly ODIHR has been conducting independent assembly monitoring activities since 2011 and has carried out assembly monitoring activities in 30 OSCE participating States. In some OSCE participating States there are good practices in supporting the independent monitoring of and reporting on the facilitation of the exercise of freedom of peaceful assembly.

National human rights institutions and the role of civil society in the protection of human rights

National human rights institutions (NHRIs) are key actors in the protection of human rights on the national level, and the OSCE participating States have underlined their importance (Copenhagen, 1990). NHRIs play an important role as a bridge between the international and national levels, and between state authorities and civil society, including human rights defenders. Since the adoption of the Principles relating to the Status of National Institutions (the Paris Principles) by the UN General Assembly in 1993, NHRIs have proliferated in the OSCE region. Their independence needs to be guaranteed to improve the promotion and protection of human rights.

National human rights institutions (NHRIs) act as both human rights protectors and educators (UN Paris Principles, OSCE Copenhagen 1990). NHRIs and civil society play an important role in helping to ensure full respect for human rights, fundamental freedoms and democracy, including by seeking, receiving and disseminating information on the protection and promotion of freedom of peaceful assembly and association. It is important that civil society organizations are not faced with requirements and restrictions amounting to undue limitations to their own freedom of peaceful assembly and association. The right to defend human rights is well established in OSCE commitments, including recognition of “the right of every individual to know and act upon his [her] rights and duties” (Helsinki 1975). OSCE participating States have also emphasized the importance of protection of human rights defenders (Budapest 1994). It is important to think how these commitments can be implemented to ensure and expand a more enabling environment for civil society and human

⁹ (A/HRC/RES/22/6, para. 11(e)).

rights defenders (HRDs), including through legislative, administrative or institutional means and the defenders' protection from physical harm, arbitrary arrests, torture, detention on false charges, and other forms of abuse, intimidation and inhuman treatment, including sexual or gender-based violence.

Freedom of movement

People need to be able to move freely in order to explore opportunities for their personal and their family's wellbeing, and to fully realise their potential and contribute to the development of the whole society. Limitations to freedom of movement bring consequent limitations to access to a range of other guaranteed rights, including the right to claim asylum.

OSCE participating States have committed to guarantee the right to freedom of movement within their territory to their citizens as well as to foreigners lawfully residing on their territory (Helsinki 1975, Madrid 1983). They have agreed that free movement and contacts between their citizens are crucial for the maintenance and development of free societies and flourishing cultures (Paris 1991). While there is no universally recognised right to enter the territory of a foreign state, OSCE participating States reaffirmed their commitment to promote freer and wider cross-border travel in the OSCE region. Only limited restrictions (consistent with OSCE commitments and international human rights obligations) should be applied to the free movement of citizens of other participating States, and legal and other restrictions should be removed with respect to travel within their territories for their own citizens and foreigners, and with respect to residence for those entitled to permanent residence (Moscow 1991).

Questions that could be addressed:

- How can OSCE participating States ensure respect for and full exercise of fundamental freedoms, including freedom of expression, freedom of peaceful assembly and association, national human rights institutions and the role of civil society in the protection of human rights, and freedom of movement ?
- What is the current state of fundamental freedoms in the OSCE region?
- What are the mechanisms to enforce positive obligations of the States in safeguarding fundamental freedoms, including freedom of expression, freedom of peaceful assembly and association, national human rights institutions and the role of civil society in the protection of human rights, and freedom of movement?
- How can the OSCE participating States ensure that freedom of expression is protected online and offline?
- What are the best modalities of interaction between State authorities, civil society and independent media to promote fundamental freedoms?
- How can OSCE participating States best facilitate the independent monitoring of the implementation of human rights standards and OSCE commitments in the areas of freedom of peaceful assembly and freedom of association?
- How can OSCE participating States support and strengthen the independence of NHRIs?
- How can OSCE participating States improve processes of registration to facilitate freedom of movement, , and strengthen identity management systems, including effective measures to address the situation of stateless persons?
- How can the OSCE ensure and expand a more enabling environment for civil society and human rights defenders? How can human rights defenders mitigate threats and challenges they face?

1–3 p.m.

Break

3–6 p.m.

Working session 11: Fundamental freedoms I (continued), including freedom of expression, freedom of peaceful assembly and association, national human rights institutions and the role of civil society in the protection of human rights, and freedom of movement

Continuation of the previous session

TUESDAY, 18 SEPTEMBER 2018

10 a.m.–1 p.m.

Working session 12 (specifically selected topic): Rights of migrants

Migrant workers, the integration of legal migrants

OSCE participating States have made a number of commitments to respect the human rights and fundamental freedoms of migrant workers (Helsinki 1992), recognizing that the issues of protection and promotion of the rights of legal resident migrant workers and their family members have a human dimension (Copenhagen 1990), and economic, cultural and social aspects (Paris 1990). Commitments include the promotion of the integration of legally resident migrant workers in host societies and the encouragement of their active participation in integration processes (Budapest 1994, Madrid 2007), the creation of conditions for promoting equality of opportunity in respect of working conditions, education, social security and health services, housing, access to trade unions as well as cultural rights for lawfully residing and working migrant workers through appropriate domestic policies, laws and international obligations (Helsinki 1992). Participating States have also recognized the need to elaborate or strengthen national integration strategies and programmes, and to ensure their national migration practices comply with relevant international obligations and OSCE commitments and incorporate gender aspects (Athens 2009, Sofia 2004).

In the context of the recent growth in numbers of migrants, and an inevitable increase in the numbers of those who require integration support, these commitments remain deeply relevant. The Hamburg 2016 Decision reaffirms earlier commitments and encourages participating States to use the OSCE platform and appropriate OSCE working bodies to continue addressing migration-related issues and improve dialogue on migration-related matters to develop effective measures and common approaches.

The aim of this session is to discuss the developments in the OSCE region related to the integration of migrants, including regular migrants and migrant workers. The session will focus on the implementation of human dimension commitments of OSCE participating States in the areas of migrant integration, in line with relevant OSCE commitments.

Questions that could be addressed:

- Have the current mixed migration flows changed the methods and tools used by OSCE participating States for migrant integration and protection of migrants' rights, and has this affected men, women and child migrants differently?
- What are examples of national good practices in incorporating gender aspects in national migrant integration policies in the OSCE participating States?

- How can OSCE participating States better raise the awareness of migrant workers and host societies, both men and women, of migrant rights, freedoms and obligations? What proactive measures (e.g. new technologies, social media) could be employed?
- How can participating States effectively promote equality of opportunity in respect to working conditions, education, social security and health services, housing and access to trade unions for lawfully residing and working migrant workers?
- What are the good practices developed by participating States to involve civil society actors, including organisations, which represent migrants, in the planning, development, implementation, monitoring and evaluation of government national action plans on migrant integration ?

1–3 p.m.

Break

3–6 p.m.

Working session 13 (specifically selected topic): Rights of migrants

Rights of migrants

Participating States have recognized the benefits and opportunities of safe, orderly and regular migration are substantial and often underestimated, whilst noting that irregular migration in large movements often presents complex challenges. They have also recognized the substantial economic and social contribution that migrants and refugees can make for inclusive growth and sustainable development (Hamburg 2016).

Participating States have also recognized the need for international co-operation in dealing with mass flows of people and to support efforts to ensure protection and assistance for refugees with the aim of finding durable solutions (Helsinki 1992).

Migratory flows have rapidly changed in the OSCE area transforming several Participating States in receiving State of migrants. By the end of 2017, the OSCE region hosted 6.48 million refugees, including 634,360 arrivals in Europe since the beginning of 2016. Arrivals continue, and according to estimates of IOM there were 1,643 casualties in the OSCE region during the first six months of 2018. There are also other dangers frequently faced by those who undertake these journeys, such as risks of exploitation, harassment and abuse by criminals.

In the context of recent increased mixed flows of people into the OSCE region, States should pay special attention to ensuring the right to claim asylum and respect the principle of non-refoulement, putting in place systems to process the increased number of applicants in a humane and dignified manner.

Targeted and customized capacity building, awareness raising and research activities can help participating States to protect the rights of migrants, including refugees and displaced persons, to promote their integration, and to strengthen national systems which support the freedom of movement (such as identity and travel document issuing systems).

States should also ensure that the vulnerabilities of particular groups of migrants, including minors and women, are taken into account and appropriate support offered, and should implement sustainable and effective integration programmes. Civil society plays an important

role in this field across the OSCE region. ; states should ensure that freedom of association is respected, and refrain from criminalising assistance.

The 2016 New York Declaration for Refugees and Migrants (2016) confirms the political will of world leaders to save lives, protect rights and share responsibility on a global scale. , and the following Global Compacts on Migrants and Refugees will aim to operationalise these commitments and provide an opportunity for the OSCE to contribute at a regional level.

Questions that could be addressed:

- How Participating States can use the OSCE platform, including appropriate OSCE working bodies, to continue addressing migration-related issues where the OSCE has developed its expertise?
- How Participating States can improve dialogue on migration-related matters with regard to developing possible effective measures and common approaches to address them?
- How can participating States improve the implementation of existing OSCE commitments concerning asylum seekers and refugees?
- What kind of assistance or co-operation could support the most affected OSCE participating States in their response in line with relevant OSCE commitments?
- How can participating States improve reception conditions for asylum seekers, particularly minors and the most vulnerable, in the context of the current mixed migration flows, and implement functional alternatives to detention?
- How can the substantial role of civil society actors to assist national authorities in providing the necessary care and support to migrants be protected?

WEDNESDAY, 19 SEPTEMBER 2018

10 a.m.–1.p.m.	Working session 14: Humanitarian issues and other commitments, including combating trafficking in human beings, refugees and displaced persons, persons at risk of displacement
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Combating trafficking in human beings

Combatting all forms of trafficking in human beings is a high priority issue to the OSCE participating States, as demonstrated by their continuous commitment to a comprehensive human rights-based and victim-centred approach over almost two decades (Istanbul Document 1999, Porto Declaration 2002, Maastricht MC.DEC/2/03, Kyiv MC.DEC 7/13, and Vienna MC.DEC 6/17 and 7/17). In this spirit, the OSCE participating States have also recognized the importance of international instruments such as the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol, 2000), which includes the first internationally agreed definition of the crime of trafficking in persons and provides a framework to effectively prevent and combat trafficking in persons.

UNODC's biennial Global Report on Trafficking in Persons estimates that 71% of detected trafficked persons are women and girls, and that 96% of detected individuals trafficked for the purposes of sexual exploitation are women and girls¹⁰. Trafficking in women and girls is a form of gender-based violence and women and girls are especially vulnerable to trafficking in

¹⁰ See The Inter-Agency Coordination Group against Trafficking in Persons (ICAT) issues brief on the Gender Dimensions of Trafficking.

human beings and other forms of exploitation in mixed migration flows. The New York Declaration for Refugees and Migrants (2016) recognized the linkages between gender dynamics of trafficking in human beings and migration, and called on governments “to address the particular vulnerabilities of women and children during the journey from country of origin to country of arrival.”¹¹ The nexus between trafficking and human beings and migration has also been a focus area of OSCE engagement. The Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings 2017 needs assessment report “From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows”, underlines that host countries have made commendable efforts to improve immediate protection means for children reaching Europe, in particular unaccompanied minors.

This year the Italian OSCE Chairmanship has kept the issue of trafficking, with a focus on trafficking in children, high on the agenda of the organization. On 28-29 May, the Chairmanship, with the support of ODIHR and the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB), held a Supplementary Human Dimension Meeting in Vienna devoted to *Child Trafficking: From Prevention to Protection*, addressing the vulnerability of child victims and children at risk of trafficking with a particular focus on unaccompanied minors.

Refugees and displaced persons, persons at risk of displacement

The question of refugees and internal displacement remains one of the most serious humanitarian and human rights challenges worldwide and in the OSCE region in particular. At the start of 2018, the OSCE region hosted 6.48 million refugees and over 3 million internally displaced persons (IDPs). These groups have particular vulnerabilities and participating States have made a number of commitments that include support for efforts to ensure that refugees and IDPs, as well as stateless persons, receive protection and assistance aimed at securing durable solutions (Helsinki 1992) and their safe and dignified voluntary return where possible (Istanbul 1999), as well as through the Hamburg (No. DEC/13), Vilnius (No. 3/11), Maastricht (Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, 2003), and Porto (2002) Ministerial Councils and Meetings. At the same time States are called to “prevent and avoid conditions that might lead to displacement of persons”¹², as well as take active steps to address violations of human rights and fundamental freedoms throughout conflict cycle (Vilnius 11). The session will provide an opportunity to discuss the challenges in combating trafficking in human beings, with a particular focus on women and children. The session will also provide opportunities to discuss the situation of refugees and displaced persons in the OSCE area and the situation of those at risk of displacement, including measures that participating States can take to protect, respect and promote the rights of these individuals, including in conflict areas.

Questions that could be addressed:

- What policies can participating States implement to ensure detection, identification and assistance to women and children to decrease their vulnerability to trafficking in human beings?
- What kind of bilateral and multilateral co-operation among OSCE participating States could ensure better responses to implement the relevant OSCE commitments?
- In the current context, how can participating States improve reception conditions and better address the needs of vulnerable groups in national asylum procedures?

¹¹ New York Declaration for Refugees and Migrants. UN A/RES/71/1 19 September 2016.

¹² UN Guiding Principles on Internal Displacement E/CN.4/1998/53/Add.2 11 February 1998.

- How can OSCE institutions, field operations and other executive structures better assist participating States to address the challenges posed by an ever increasing number of migrant, asylum seekers, refugees and displaced persons? What should the role of civil society be?

1–3 p.m.

Break

3–6 p.m.

Working session 15: Tolerance and non-discrimination II (continued), including ensuring equal opportunity for women and men in all spheres of life, including through the implementation of the OSCE Action Plan for the Promotion of Gender Equality, prevention of violence against women

Equality of opportunity for women and men in all spheres of life, including through implementation of the OSCE Action Plan for the Promotion of Gender Equality

Fourteen years since the adoption of the OSCE Action Plan for the Promotion of Gender Equality¹³ in 2004, the declarations of gender equality have yet to be transformed into *de facto* reality in the OSCE region. While progress has been made towards gender equality, inequalities persist and are often deeply rooted in stereotypes on the roles of men and women in society, perpetuated at the state, organization, society and family levels.

Equal participation of both women and men in political and public life is crucial for the legitimacy and effectiveness of our democracies. Women's political participation in the OSCE region has grown from about 15% in 2000 to the current average of about 27% women in national legislatures of the OSCE States.¹⁴ However, progress has stalled over the last years. In some OSCE participating States the percentage of women in the armed forces is as low as 0.9 per cent¹⁵ and in many it does not reach five per cent. These figures are much lower when speaking about women from minority groups, such as women with disabilities.

There is a need to strengthen and broaden the space for the women's movement across the OSCE region. Women's voices should be heard and their human rights upheld, without restrictions on funding sources, undue financial controls, and intimidation. Despite challenges, women's movements continues to advocate for gender equality, human rights and democracy for all.

In the OSCE Action Plan for the Promotion of Gender Equality, participating States tasked ODIHR to promote women's political participation, strengthen democratic institutions for advancing gender equality, and facilitate co-operation with civil society. They also recognized the importance of "providing for specific measures to achieve the goal of gender balance in all legislative, judicial and executive bodies, including security services, such as police services," as specified in the Ministerial Council decision on *Women's Participation in*

¹³ OSCE Ministerial Council Decision 14/04, *2004 OSCE Action Plan for the Promotion of Gender Equality*, Art 44 (d) and 44 (g), <https://www.osce.org/mc/23295>.

¹⁴ Inter-Parliamentary Union database, *Women in National Parliaments*, < <http://archive.ipu.org/wmn-e/world.htm>>, data as of 1 June 2018.

¹⁵ Rey Juan Carlos University, Australian Human Rights Commission and Australian Defence Force, UNSCR 1325 Reload, 2015, p. 26.

Political and Public Life.¹⁶ With its *Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area*, the states called for systematic mainstreaming of Roma and Sinti women's issues, as well as supporting their access to employment, health care, education and political and social participation.¹⁷

Prevention of violence against women

Violence against women, an extreme form of discrimination and a human rights violation, remains persistent. Only 11% of women who experience sexual assault report it.¹⁸ This equates to a massive gap in the provision of police services to victims of violence. As observed at the 2018 OSCE Supplementary Human Dimension Meeting on *Countering Violence against Women*, organised by the Italian Chairmanship with the support of ODIHR and the OSCE Gender Section, violence against women takes different forms and latitudes. New forms of violence are emerging, especially online, including digital threats and encouragement of violence, reputation-harming, and targeting women in the public sphere, including politics and media.¹⁹ Existing legal and policy frameworks need to be revised to cover these new types of violence.

This session will provide an opportunity for participating States to take stock of progress in the implementation of OSCE commitments on gender equality, explore challenges and good practices related to equality of opportunity for women and men as well as to the prevention of violence against women, and make recommendations to ODIHR, participating States and other relevant actors on future efforts needed for achieving gender equality.

Questions that could be addressed

- What challenges do OSCE participating States face in ensuring gender equality, and what strategies are effective in tackling gender stereotypes which perpetuate inequality between women and men?
- What measures and good practices are effective in promoting equal participation of women and men in political and public life, including in decision-making and the security sector?
- How can OSCE structures further assist OSCE participating States in fulfilling their commitments to achieving gender equality, including support to the women's movement?
- What are the different forms of violence against women recorded in the OSCE region and what are the good practices for addressing them?
- How can the prevention of violence against women in peace-times inform the prevention of violence against women in crisis situations?

¹⁶ OSCE Ministerial Council Decision 7/09 on *Women's Participation in Political and Public Life*, Art 1, <https://www.osce.org/mc/40710>.

¹⁷ OSCE Ministerial Council Decision 3/03: OSCE Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, paragraphs 90-94, 96-101, 105, 106, <https://www.osce.org/odihr/17554?download=true>.

¹⁸ ODIHR, OSCE and DCAF, Integrating gender into internal police oversight, 2014, www.osce.org/odihr/118326.

¹⁹ Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective, A/HRC/38/47.

THURSDAY, 20 SEPTEMBER 2018

10 a.m.–1 p.m.

Working session 16 (specifically selected topic): Combating racism, xenophobia, intolerance and discrimination

Hate crimes: mechanisms to strengthen comprehensive response by the governments and civil society

Manifestations of discrimination and intolerance including hate crimes remain a serious threat to security across the OSCE region. Many marginalized and vulnerable groups are continuously the targets of discrimination, intolerant discourse and hate crimes that can escalate into wider scale conflict and violence. Therefore, OSCE participating States have agreed to develop comprehensive national responses to hate crimes and have adopted a range of commitments to take action against discrimination and crimes motivated by bias. In 2009, the OSCE Ministerial Council adopted Decision No. 9/09, containing a comprehensive set of commitments to prevent and counter hate crimes, including through strengthening legislation, collecting reliable data, building the capacity of actors in criminal justice systems, encouraging victims to report, supporting the victims, assisting civil society, and considering drawing on resources developed by ODIHR in relevant areas.

Since 2006, ODIHR has undertaken efforts to collect and publish statistics and information on hate crimes and incidents, national developments and initiatives to counter hate crime, and legislation in all OSCE participating States. Each year, on International Tolerance Day (16 November), this information is published on ODIHR's hate crime reporting website²⁰.

Hate crimes are message crimes and they affect not only the victims and their closest surrounding, but entire communities. Information provided by civil society organizations indicates that hate crimes and incidents remain a matter of a grave concern. The information received from governments, international and civil society organizations demonstrate that under-reporting and under-recording of hate crimes is prevalent throughout the OSCE region. At the same time, available data suggests that government responses to bias-motivated violence, intolerance and discrimination have often been inadequate.

Despite different policies introduced by governments, many participating States are yet to develop a comprehensive approach to addressing hate crimes. Fragmented solutions address only some of the aspects of hate crimes and can lead to incoherent responses. Although almost all participating States have adopted specific hate crime provisions, these laws frequently have yet to be given practical effect – through recording, investigation and prosecution of hate crimes, based on a uniform understanding across the criminal justice system of what hate crimes are. By the same token, support to the victims of hate crime is too often lacking in spite of both international and domestic efforts.

Such gaps can only be overcome if holistic and coordinated approaches are developed. Strengthening collaboration and co-ordination between all relevant State agencies and civil society is key to ensuring a coherent and robust response. For example, some of the participating States have introduced cross-government working groups, policies or programmes on addressing hate crimes as a crucial tool to strengthen institutional commitment and mobilize various agencies to address bias-motivated crimes and support

²⁰ The ODIHR's hate crime reporting website is accessible here: <http://hatecrime.osce.org>.

victims. Without such mechanisms and a common approach to capacity building of all relevant national actors, achieving a coherent response to hate crimes is not possible.

The OSCE participating States can also benefit from improving co-operation with civil society to address bias-motivated incidents. Working together with civil society, the governments will have access to valuable information regarding hate crimes from the perspective of particular victims and targeted communities and their needs, an opportunity to reach out to those communities in order to ultimately build trust between the communities and law enforcement agencies to ensure better reporting of hate crimes. Civil society organizations also can serve as early warning of rising tensions which will ensure proper resource allocation and organization of prevention measures in a timely manner.

The aim of this session is to review the implementation of OSCE commitments related to hate crimes by examining good practices, challenges and lessons learned. Understanding that combating hate crimes must be a priority for all relevant government agencies, the session will focus on exploring mechanisms to build a comprehensive and co-ordinated approach to addressing hate crimes. The session will also examine the perspective of victims and identify ways to encourage victims to report bias-motivated incidents and crimes. The role of civil society and strengthening co-operation between the governments and civil society will be discussed as a crucial component for a robust and coherent approach in combatting hate crimes.

Questions that could be addressed:

- How are participating States ensuring the implementation of the OSCE Ministerial Council Decision 9/09 and other decisions related to preventing and responding to hate crimes and discrimination?
- What progress has been made by participating States in strengthening a comprehensive approach to addressing hate crimes and in identifying and implementing good practices?
- What policies and tools have been developed and implemented by participating States to counter manifestations of intolerance and discrimination including hate crimes? How can these initiatives contribute to preventing hate crime in a coherent manner?
- How do governments support civil society organizations, engage with them and ensure sustainable co-operation with them? How can civil society coalitions support a comprehensive approach to hate crimes? What are good practices and lessons learned in this area?

1–3 p.m.

Break

3–6 p.m.

Working session 17 (specifically selected topic): Combating racism, xenophobia, intolerance and discrimination

Addressing racism, xenophobia, intolerance, and discrimination

The OSCE participating States have committed to a comprehensive framework for addressing racism, xenophobia, intolerance and discrimination since the 2003 Vienna Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination. This framework includes a number of Ministerial Council declarations and commitments acknowledging the need to address these manifestations of intolerance, especially that they may give rise to

conflict and violence on a wider scale, in addition to giving rise to feelings of exclusion and insecurity, not only among the communities targeted but in societies as a whole.

Furthermore, OSCE participating States have committed to take steps to prevent and address intolerance and discrimination, while applying a “common approach” to address all acts and manifestations of hate, and acknowledging the “uniqueness of the manifestations and historical background of each form” (Ministerial Council Decision 13/06). As stated in the Copenhagen Document in 1990, OSCE participating states have also committed to the equality of all before law and the need to guarantee legal protection to all persons against any discrimination on any ground.

Also, in addressing these concerns at the 2006 Brussels Ministerial Council, OSCE participating States identified the need for “effective partnerships and strengthened dialogue and co-operation between civil society and State authorities in the sphere of promoting mutual respect and understanding, equal opportunities and inclusion of all within society and combating intolerance.

Participating States have also recognized their primary responsibility for addressing acts of intolerance and non-discrimination and called for continued efforts by political representatives, including parliamentarians, to strongly reject and condemn manifestations of racism, xenophobia, anti-Semitism, discrimination and intolerance, as well as violent manifestations of extremism associated with aggressive nationalism and neo-Nazism, while continuing to respect freedom of expressions.

Nevertheless, manifestations of racism, xenophobia, intolerance and discrimination still continue across the OSCE region. Various exclusionary measures, often disproportionately targeting women, can also undermine the principle of equality.

New trends that are arising and the intersectional nature of various current manifestations of intolerance and discrimination require the application of new approaches. Also, increasingly sophisticated technical tools are needed to understand, analyse and help address manifestations of racism, xenophobia, discrimination and intolerance.

The aim of this session is to review the implementation of OSCE commitments related to addressing racism, xenophobia, intolerance and discrimination, the progress made as well as the challenges encountered, with a special emphasis on exchanging good practice and lessons learned.

Questions that could be addressed:

- How are OSCE participating States ensuring the implementation of the OSCE Ministerial Council Decisions No. 10/07, No. 13/06 and 10/05 on tolerance and non-discrimination, and any other commitments relating to racism, xenophobia, discrimination and intolerance? What are the challenges that participating States face in this regard?
- What progress have participating States made in establishing specialized bodies and developing and implementing national and regional action plans and strategies to address racism, xenophobia, intolerance and discrimination?
- How can the participating States effectively consult and communicate with civil society, particularly including organizations representing minority communities, in addressing racism, xenophobia, intolerance and discrimination?

- Which steps can be taken in order to better explore and effectively address the different effects that various manifestations of intolerance and discrimination can have on men and women?
- How can ODIHR and other OSCE institutions better support participating States in implementing their commitments relating to racism, xenophobia, discrimination and intolerance?

FRIDAY, 21 SEPTEMBER 2018

10 a.m.–1 p.m.	Working session 18: Discussion of human dimension activities (with special emphasis on project work)
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Presentation of activities of the ODIHR and other OSCE institutions and field operations to implement priorities and tasks contained in the relevant OSCE decisions and other documents

OSCE institutions and field operations have played an important role in strengthening democracy and human rights practices, and in promoting OSCE participating States' compliance with human dimension commitments. A vital element in this process has been the development and implementation of targeted activities and projects, which are part of a longer-term, cross-cutting strategy. These human dimension activities have grown in scope and duration to include specific assistance efforts, programmes and projects (e.g., legislative assistance, training, and workshops for both government officials and members of civil society, human rights education). Through its project work, OSCE has been drawing attention to specific human dimension policy issues and creating a space and a forum for a focused dialogue, which can be followed up by concrete assistance to facilitate change and impact on reforms.

The aim of this session is to identify how participating States can derive most benefit from the OSCE's assistance in implementing the priorities and tasks contained in OSCE decisions and other documents. It will explore the role of OSCE project work in facilitating policy changes through targeted programmes, projects and initiatives across the OSCE region. Participating States, international organizations and civil society, including beneficiaries of OSCE projects and assistance, are invited to comment on the presentations and to present their own project priorities for reciprocal comment.

Questions that could be addressed:

- How can the OSCE be most effective in assisting participating States in implementing their human dimension commitments and facilitate policy change?
- What are successful examples of OSCE interventions to support and inform policy and empower stakeholders and policy-makers from the recent years? What was the impact?
- In which human dimension areas are the OSCE institutions and field operations best placed to facilitate policy change?
- How can OSCE institutions' and field operations' mandates and programming be used most effectively?

Closing reinforced plenary session (reinforced by the participation of human rights directors, OSCE ambassadors and heads of OSCE institutions):

- Any other business
- Closing of the meeting